

- I. Claims 1, 5 and 6, drawn to a first screening assay, classified in class 435, subclass 4.
- II. Claims 2-6, drawn to a second screening assay, classified in class 435, subclass 4.

The Examiner contends that the inventions of groups I-II are distinct from each other.

In response, Applicants respectfully traverse the requirement for restriction.

Applicants respectfully assert that even assuming *arguendo* groups I-II represent distinct or independent inventions, to search and examine the subject matter of groups I-II together would not be a serious burden on the Examiner.

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. *See* MPEP § 803 (Eighth Edition, August 2001) .

The subject matter of groups I-II are so intertwined that a single search would identify any relevant art pertaining to a screening assay for identifying specific small organic molecules which act as antimicrobials by inhibiting or uncoupling enzyme I. Indeed, the Examiner identified groups I-II as being in the same class and subclass. Moreover, measuring pyruvate levels, as in group I, and using radiolabeled N-acetylglucosamine phosphate acceptor and isolating phosphate acceptor to measure phosphorylation, as in group II, are both used to identify antimicrobial agents which uncouple or inhibit the bacterial phosphotransferase system. More specifically, the assays of both group I and II involve the use of an inhibitory compound X which acts at enzyme I (see the specification, figure 2). Once enzyme I is uncoupled or inhibited, its activity can be measured by several assays which are described in the specification at page 17, line 6 to page 18, line 12. Applicants respectfully submit that it would not be a burden on the Examiner to search for screening assays which uncouple or inhibit enzyme I activity by measuring phosphatase activity or

phosphotransferase activity. Thus, in view of M.P.E.P. § 803, all of the claims of Groups I-II should be searched and examined in one application. Accordingly, Applicants respectfully request that the Restriction Requirement be withdrawn so that claims 1-6 are examined in one application.

In order to be fully responsive, however, Applicants hereby provisionally elect, with traverse, to prosecute the claims of group II, without prejudice to Applicants' right to pursue the non-elected subject matter in other applications.

Entry of the remarks made herein is respectfully requested. The Examiner is invited to contact the undersigned with any questions concerning the foregoing.

Respectfully submitted,

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Enclosure